

**BEFORE THE  
DIVISION OF MEDICAL QUALITY  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Petition for )  
Reinstatement of Revoked Certificate of: )

No. 20-1999-94366

**SHASHI D. GANTI** )  
Physician and Surgeon's )  
Certificate No. A-38830 )

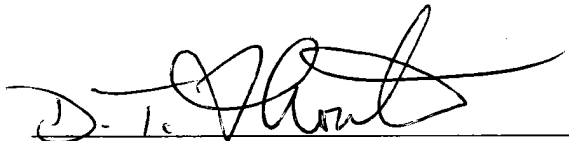
Petitioner )  
\_\_\_\_\_ )

**ORDER DENYING PETITION FOR RECONSIDERATION**

The Petition for Reconsideration and Request for Stay filed by James Jay Seltzer, attorney for Shashi D. Ganti, in the above-entitled matter, having been read and considered by the Medical Board of California, is hereby denied.

This Decision remains effective at 5:00 p.m. on September 6, 2000.

**IT IS SO ORDERED:** September 6, 2000



David T. Thornton  
Chief of Enforcement  
**Medical Board of California**

**BEFORE THE  
DIVISION OF MEDICAL QUALITY  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

**In the Matter of the Petition for  
Reinstatement of Revoked Certificate of:**

**SHASHI D. GANTI**

**Physician's and Surgeon's  
Certificate No: A-38830**

**Respondent**

**OAH No: N-2000020429**

**MBC No: 20-1999-94366**

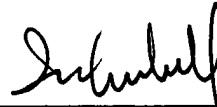
**DECISION**

**The attached Proposed Decision of the Administrative Law Judge is hereby adopted  
as the Decision and Order of the Division of Medical Quality of the Medical Board of  
California, Department of Consumer Affairs, State of California.**

**This Decision shall become effective at 5:00 p.m. on September 6, 2000.**

**DATED August 7, 2000**

**DIVISION OF MEDICAL QUALITY  
MEDICAL BOARD OF CALIFORNIA**



**Ira Lubell, M.D.  
Chair, Panel A**

BEFORE THE  
DIVISION OF MEDICAL QUALITY  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS

In the Matter of the Petition for  
Reinstatement of Revoked Certificate of:

SHASHI DHAR GANTI  
7608 Northland Place  
San Ramon, California 94583

Physician and Surgeon's  
Certificate No. A-038830,

Respondent.

OAH No. L-2000020429

MBC No. 20-1999-94366

**PROPOSED DECISION**

This matter was heard by Vincent Nafarrete, Administrative Law Judge of the Office of Administrative Hearings, at Los Angeles on March 15, 2000. The Medical Board of California was represented by Cindy Lopez, Deputy Attorney General. Respondent or petitioner Shashi Dhar Ganti, was present and represented by James Seltzer, Attorney at Law.

For the hearing, complainant presented documentary evidence (Exh. 1). Respondent thereupon presented a binder (Exh. A) and the testimony of witnesses James M. Stubblebine, M.D.; Alan Jay Axelrod, M.D.; Karen H. Tison, M.D.; Ajit P.S. Sandhu, M.D.; and his spouse Akhila S. Ganti. Respondent also testified and was subject to cross-examination. Both parties presented argument.

Oral and documentary having been received and the matter submitted for decision, the Administrative Law Judge finds as follows:

**FACTUAL FINDINGS**

1. On or about July 1982, the Medical Board of California issued physician and surgeon's certificate no. A-038830 to Shashi Dhar Ganti (hereinafter respondent). Respondent completed medical school at the Andhra Medical College in India in or about 1981 and residency and fellowship training in ophthalmology at the Cook County Hospital in

Illinois from 1981 until 1985. He received board certification in ophthalmology in 1986 and was practicing medicine in Pasadena in 1993.

2. (A) On April 4, 1994, before the Medical Board of California, Case No. L-62874, an administrative law judge granted a petition for interim suspension order pursuant to Government Code Section 11529 and respondent's certificate was suspended pending the hearing on an accusation.

(B) On June 12, 1995, before the Medical Board of California, Case No. L-62806, and following a hearing on Accusation No. D-5598, respondent's certificate was revoked for unprofessional conduct for having committed sexual misconduct with a patient under Business and Professions Code Sections 726 and 2234 and gross negligence under Business and Professions Code Section 2234(b).

3. The facts and circumstances of respondent's unprofessional conduct may be summarized as follows:

a. On or about May 10, 1993, respondent saw a female patient for the first time for treatment of a possible eye infection and consultation for radial keratotomy surgery. The patient expressed fears about the pain from the procedure. Respondent offered to help the patient to overcome her reservations about the radial keratotomy. Respondent gave the patient two .25 milligram tablets of Halcion, a sedative, and instructed her to ingest the tablets when she arrived home. Respondent indicated he would then come to her home to evaluate her response.

b. Later that day, respondent called the patient at her home; the patient indicated she had taken the sedative and gave her address to him. When respondent arrived at the patient's home at 6:30 p.m., she was already experiencing the effects of the sedative. The patient collapsed on her living room sofa. Respondent told the patient she needed to lie down on her bed in order for him to evaluate her response to an eye speculum.

c. In the bedroom, while the patient was under the influence of the sedative and falling asleep and unable to resist, respondent sexually abused the patient by kissing her, touching her breasts, legs, and vagina, and placing the patient's hand on his pants and erect penis underneath.

4. Respondent's unprofessional conduct was egregious and serious in nature. He took advantage of his position of authority as a physician and violated the trust of a patient for his own sexual gratification. As such, for purposes of this petition for reinstatement, it behooves respondent to present significant evidence of his rehabilitation.

5. In January 1996, before the Municipal Court, County of Los Angeles, respondent was convicted of violating Penal Code Section 243.4(d) (sexual battery) and placed on probation on condition, in part, that he pay a fine of \$815. In September 1996, respondent's criminal case was dismissed and set aside.

6. (A) Since the revocation of his certificate in 1995, respondent has participated in continuing medical education activities with the American Academy of Ophthalmology. In 1996, he received 42 credit hours for attending the annual meeting in Chicago. In 1997, respondent received 13 credit hours for participating in a course on refractive surgery. In 1998, he received 14 credit hours for attending a refractive surgery seminar and 35 credit hours for attending the annual meeting in New Orleans. In 1999, he received one credit hour for attending a course on diseases of the ocular surface, 14 credit hours for a refractive surgery class, and 35 credit hours for the joint meeting in Orlando.

(B) In addition, respondent has participated in grand rounds at the Department of Ophthalmology at the University of California San Francisco medical school and received 34.5 credit hours for the fiscal year ending June 1997. He has also taken part in grand rounds at the Stanford University medical school's ophthalmology department.

7. (A) In October 1999, respondent sat for and took the Special Purpose Examination of the Federation of State Medical Boards of the United States. He received a passing score of 80 on said examination for testing current medical knowledge.

(B) Respondent has presented letters and witnesses who, in part, attest to his medical education and training as well as his reputation as a proficient ophthalmologic surgeon with a subspecialty in corneal and retinal surgery.

(C) Respondent's certificate was not disciplined, however, for lack of medical knowledge or competency as a physician and ophthalmologic surgeon. Rather, it was respondent's violation of a patient's trust and his sexually abusing the patient that resulted in the revocation of his medical certificate. The issue arises whether he can be considered rehabilitated from his sexual misconduct.

8. (A) Respondent has been treated by psychiatrist James M. Stubblebine, M.D., of Greenbrae, California, since February 1996. He has seen Dr. Stubblebine 12 times and spoken with him 24 times on the telephone over the past four years. He last saw Dr. Stubblebine in October 1999.

(B) Over the last four years, respondent received treatment and was assigned reading by Dr. Stubblebine. A list of the books and articles that respondent read and studied are set forth in his Exhibit A-8.

(C) Dr. Stubblebine testified on direct examination that respondent's understanding about his unprofessional conduct has changed since the inception of treatment. Initially, respondent was angry, frustrated, and irritable about the discipline imposed upon his certificate. He then accepted his misconduct on a philosophical level. Dr. Stubblebine indicates respondent now accepts responsibility and expresses remorse for his misconduct.

(D) It was not clearly established, however, why respondent saw Dr. Stubblebine or what conditions that Dr. Stubblebine addressed in his treatment of respondent. In his

letter of September 21, 1999 (Exh. A-5), the psychiatrist indicates that respondent "was doing well at recovery from depression" such that respondent "has recovered from it entirely." It appears from the evidence that respondent became depressed due to the revocation of his medical certificate and then the passing away of his father. Respondent did read books and articles on boundary issues between physicians and patients and sexual misconduct by health care professionals, but it was not established whether respondent has been diagnosed with any other condition other than depression or, in fact, received therapy for any condition that led him to commit sexual misconduct with the patient in 1993. Dr. Stubblebine recommends further psychiatric treatment if he is placed on probation but provides no diagnosis.

(E) Moreover, it was not established by the testimony of Dr. Stubblebine that respondent has recovered from any psychiatric or behavioral condition that led to his sexual misconduct such that respondent can be considered no longer a threat to the public health and safety or to patients. It is not sufficient to say that respondent has changed his life and internalized standards for good medical practice or that there is 98 percent likelihood that respondent would not repeat his sexual misconduct. On cross-examination, Dr. Stubblebine indicated respondent has conscious self-control because he demonstrated self-control by stopping his misconduct before having sexual intercourse with the patient. Said testimony is not persuasive because the patient was drugged and unable to respond one way or the other to respondent's sexual advances. Dr. Stubblebine also suggested that patient may have tacitly cooperated with respondent during his misconduct but such suggestion is not supported by any evidence and tends to show that respondent perhaps has conveyed a belief that he was not entirely at fault.

9. (A) Respondent has presented the testimony and letters of fellow physicians who have known and/or practiced with him over the past 17 years or so. It is the consensus of respondent's colleagues that he is a fine medical practitioner and eye surgeon. Respondent has discussed with said physicians why his medical certificate was revoked. Said physicians all attest that respondent is remorseful about his sexual misconduct and demonstrates contriteness for harm that he caused to the patient.

(B) However, it was not clearly established that respondent has, in fact, fully disclosed the nature of his unprofessional conduct to his colleagues. Dr. Alan Jay Axelrod testified that respondent has not dwelled on being framed by the patient and admits using bad judgment. Dr. Sasanka Mukerji wrote that he discussed with respondent methods to identify a difficult patient and the importance of having a chaperone in the examination room (Exh. A-3). Dr. Ajit P. S. Sandhu also wrote that he discussed with respondent the need to be careful while examining female patients and to have a nurse or family member in the examination room; Dr. Sandhu further opined that respondent is "fully aware of his inexperience" and has learned from "this unfortunate and preventable situation" (Exh. A-3). In his own narrative (Exh. A-2), respondent laments he could have avoided the incident had he exercised good judgment and had a nurse with him when examining the patient. However, the nature of respondent's misconduct had nothing to do with examining a female patient in his office; rather, respondent made a house call and sexually abused a drugged

patient in her home. The presence of a female chaperone in the office would not necessarily have prevented respondent's misconduct. Said statements have a tendency in reason to show that respondent may not have fully disclosed the nature of his misconduct to his colleagues.

10. Respondent admits his sexual misconduct and expresses remorse for his unprofessional conduct; he states he is very sorry for harming the patient and does not hold her responsible. He has been especially devastated by the loss of his medical certificate and his professional life as an ophthalmologic surgeon and believes he still has a lot to offer as a physician.

11. On the other hand, respondent displayed a degree of arrogance while testifying and does not seem to accept full responsibility for his actions. While stating he was sorry and did not hold the patient responsible, respondent added that he felt the patient was attracted to him. He states he moved the patient to her bedroom because he had to examine her while she was lying down and the electric plug was not operable in the living room. He insists the visit to the patient's home was a professional visit when the evidence demonstrates otherwise. As such, despite his expressions of remorse, respondent's demeanor and statements do not completely coincide with what may be expected of a party who truly understands the root cause of his wrongdoing and has undertaken to correct his thought patterns and behavior to prevent a reoccurrence.

12. It was not established that respondent has been actively involved in any community, religious-affiliated, volunteer, or social work in this country or abroad.

13. In January 1996, respondent and his spouse and two children moved to northern California. He has been married for 12 years. His spouse, who works as a manager of a consulting firm, indicates respondent is a caring husband and father who has changed and learned from his wrongdoing and license revocation.

14. Respondent has no other history of discipline on his medical certificate. He is 46 years old and has not practiced medicine now for over five years.

\* \* \* \* \*

Pursuant to the foregoing findings of fact, the Administrative Law Judge makes the following determination of issues:

#### LEGAL CONCLUSIONS

Grounds do not exist to grant respondent's petition for penalty relief for reinstatement of his revoked certificate under Business and Professions Code Section 2307 and Government Code Section 11522 in that it was not established that respondent is

rehabilitated from his unprofessional conduct of having committing sexual abuse of a patient, based on Findings 7(C) and 8 - 12 above.

It has been five years since respondent's certificate was revoked. However, respondent did not establish that he truly understands the serious nature of his misconduct or accepts full responsibility for his own actions. He demonstrates both remorse and arrogance about the incident and his misconduct and he still seems to place some blame upon the patient. It appears by his testimony and the statements of colleagues that he believes that recognition of certain factors in the examination room and the presence of a nurse would have prevented the misconduct. Respondent does not completely and honestly acknowledge that he provided a sedative to the patient for other than a legitimate medical purpose, went to the patient's home after office hours, and sexually abused the patient while she was under the influence of the medication. Equally important, respondent's psychiatrist did not provide a definitive diagnosis or prognosis of respondent's condition as well as sufficient assurance that respondent would not repeat his misconduct.

Respondent is a skillful ophthalmologic surgeon who strongly desires to have his medical certificate reinstated and has suffered from the revocation of his license. Until he makes a stronger showing of his rehabilitation that may include evidence of therapy and recovery, acceptance of responsibility, remorse, and/or community service, the public interest and welfare require that respondent's certificate remain revoked for the time being.

\* \* \* \* \*

WHEREFORE, the following Order is hereby made:

ORDER

The Petition for Penalty Relief filed by respondent Shashi Dhar Ganti, for reinstatement of his revoked medical certificate is denied.

Dated:

July 5, 2000



Vincent A. Farrete  
Administrative Law Judge  
Office of Administrative Hearings